



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BARBARA DUKA,

Plaintiff,

- against -

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Defendant.

15 Civ. 357 (RMB) (SN)

DECISION & ORDER

Based on the record herein, including, without limitation, (i) the Court's Decision & Order, dated August 12, 2015, preliminarily enjoining the U.S. Securities and Exchange Commission ("SEC") from pursuing administrative proceedings against Barbara Duka, captioned In the Matter of Barbara Duka, Admin. Proc. File No. 3-16349 (Jan. 21, 2015); (ii) the SEC's notice of interlocutory appeal, dated August 26, 2015, which notified the Court that the SEC has appealed to the United States Court of Appeals for the Second Circuit from the Court's Decision and Order of August 12, 2015; (iii) the SEC's letter, dated September 10, 2015, which requested that the Court address the SEC's planned motion to stay all proceedings (except the SEC's motion to stay the preliminary injunction) pending appeal; (iv) the Court's Decision & Order, dated September 17, 2015, which denied the SEC's motion to stay pending appeal the Court's preliminary injunction; and (v) applicable legal authorities; and (vi) the Court having heard helpful oral argument on September 16, 2015 (see Transcript, dated September 16, 2015), the Court orders as follows:

1. The SEC is directed to file an Answer to Plaintiff's Complaint, dated June 10, 2015, on or before Friday, October 2, 2015; and

2. In the interests of judicial and administrative efficiency, among other things, immediately following the filing of the SEC's Answer, this matter will be stayed pending the outcome of appellate review in Barbara Duka v. U.S. Securities and Exchange Commission, No. 15-2372 (2d Cir.). See Fed. R. Civ. P. 62; see also Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A., 630 F. Supp. 2d 295, 306 (S.D.N.Y. 2009) (“[A] stay will serve not only the interest of the courts, but also the interests of the Parties, the nonparties, and the public in an orderly and efficient use of judicial resources.”). The parties are in agreement that a stay would promote judicial and administrative efficiency. See Tr. 26:23-27:1 (As stated by Ms. Jean Lin, counsel for the SEC, “if we can efficiently allow the Second Circuit to make the threshold questions or other questions, I think that will certainly save your Honor and the parties a lot of time.”); id. 35:12-13 (Mr. Guy Petrillo, counsel for Duka, agreed with the judicial economy argument, excluding only the SEC's answer: “We agree. That's as wise an approach as the one we suggested and we are fine with that.”).

Dated: New York, New York
September 18, 2015



RICHARD M. BERMAN, U.S.D.J.